

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.19440 OF 1998

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DATED: 21-6-2007

Between:

M. Murali

.. Petitioner

and

Executive Officer, T.T.D., Tirupathi and
others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.19440 OF 1998

ORDER:

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This writ petition is filed seeking a mandamus declaring the action of the respondents 1 and 2 in promoting the 3rd respondent as Assistant Executive Officer, vide Memo in ROC.No.E1/11005/98, dated 04.7.1998, bypassing the seniority list issued by the 1st respondent vide Circular in ROC.No.E1/11128/95, dated 18.3.1995, as arbitrary, illegal and contrary to G.O.Ms.No.1060 Revenue (Endowments-I) dated 24.10.1989; and consequently to direct the respondents 1 and 2 to promote the petitioner as Assistant Executive Officer with effect from 04.7.1998 with all consequential benefits.

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It appears, the petitioner joined the service of Tirumala Tirupati Devasthanam (for short 'TTD') as Lower Division Clerk with effect from 19.4.1967. Subsequently, he was promoted as Upper Division Clerk with effect from 16.12.1978. Thereafter, in the year 1990, he was further promoted to the post of Superintendent. In the seniority list, dated 18.3.1995, prepared by the 1st respondent in respect of the post of Superintendent, the name of the petitioner was shown at Sl.No.67. It is the grievance of the petitioner that, as per Tirumala Tirupati Devasthanam Rules 1989, he is entitled and fully qualified for being promoted to the post of Assistant Executive Officer, but the Departmental Promotion Committee ignored his seniority and selected the 3rd respondent, who was junior to him, for promotion to the post of Assistant Executive Engineer, which is arbitrary and illegal. Aggrieved by the same, the present writ petition is filed.

A detailed counter-affidavit has been filed by the respondents denying the allegations made by the petitioner. It is asserted that as per seniority list, the names of the persons will be placed before the

Departmental Promotion Committee, which, in turn, includes the eligible candidates in the fit list for selection to the promotion, but not as per seniority as alleged. Accordingly, the name of the petitioner has been placed before the Departmental Promotion Committee and the Committee could not include the name of the petitioner in the fit list of candidates for promotion to the post of Assistant Executive Officer in view of his unsatisfactory record of service. Hence, his name was passed over in the list of Departmental Promotion Committee. Further, the immediate seniors to the petitioner, one G.Parthasarathi Naidu and P.C.Sankar were having clean service record; whereas the petitioner was awarded with a punishment of stoppage of one increment for a period of one year with cumulative effect for not returning the duplicate T & P register and he was also placed under suspension for dereliction of duties and unauthorized absence from duty. Since the petitioner had no clean record, his Junior Smt G.Laithamma, who was having clean record, has been selected by the Departmental Promotion Committee for promotion to the post of Assistant Executive Officer, since the post of Assistant Executive Officer is a selection post and seniority will be considered only when merit and ability are approximately equal. Further, to qualify for promotion to a selection post, the least that is expected from an employee is to have unblemished service record. Therefore, the petitioner's claim is devoid of merits.

From the above, it is clear that promotion to the post of Assistant Executive Officer is always based on selection and seniority will be considered only when merit and ability are approximately equal. In case of the petitioner, he had no unblemished service. He was awarded with a punishment of stoppage of one increment for a period of one year with cumulative effect and was also placed under suspension for dereliction of duties and unauthorized absence from

duty. Therefore, it cannot be said that the Departmental Promotion Committee wrongly selected the 3rd respondent, who is junior to him, for promotion. The records of all the eligible employees were placed before the Departmental Promotion Committee and, on examination of the record of the petitioner, the Departmental Promotion Committee found that he is unfit for promotion and, as such, the 3rd respondent, who is the immediate junior to the petitioner, whose service record was admittedly clean, was promoted. Therefore, it cannot be said that either the promotion of the 3rd respondent or denial of promotion to the petitioner is arbitrary and illegal. The writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs. However, if the case of the petitioner is considered for promotion to the post of Assistant Executive Officer during the pendency of the writ petition, this order will not come in the way of the petitioner.

C.V. RAMULU, J

21st June, 2007.

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